

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 16-828V

Filed: June 26, 2017

Not to be Published

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VICKI CAREY, on behalf
of her minor child, C.C.,

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Petitioner,

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Petitioner's Motion for a

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Decision Dismissing the Petition;

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Insufficient Proof of Causation; Vaccine

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Act Entitlement; Denial Without Hearing

SECRETARY OF HEALTH AND
HUMAN SERVICES,

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Respondent.

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DECISION

On July 12, 2016, Vicki Carey filed a Petition for Vaccine Compensation in the National Vaccine Injury Compensation Program (“the Program”),¹ alleging that C.C. was injured by a vaccine listed in the Vaccine Injury Table. *See* § 14. The information in the record, however, does not show entitlement to an award under the Program.

On June 23, 2017, Petitioner moved for a decision dismissing her petition, acknowledging that she will be unable to prove she is entitled to compensation in the Program.

To receive compensation under the Program, Petitioner must prove either 1) that C.C. suffered a “Table Injury” – i.e., an injury falling within the Vaccine Injury Table – corresponding to one of C.C.’s vaccinations, or 2) that C.C. suffered an injury that was actually caused by a vaccine. *See* §§ 300aa-13(a)(1)(A) and 300aa-11(c)(1). An examination of the record did not uncover any evidence that C.C. suffered a “Table Injury.” Further, the record does not contain a medical expert’s opinion or any other persuasive evidence indicating that C.C.’s injury was vaccine-caused.

¹ The Program comprises Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755, codified as amended, 42 U.S.C. §§ 300aa-10 *et seq.* (hereinafter “Vaccine Act” or “the Act”). Hereafter, individual section references will be to 42 U.S.C. § 300aa of the Act.

Under the Act, the petitioner may not be given a Program award based solely on the petitioner's claims alone. Rather, the petition must be supported by either medical records or by the opinion of a competent physician. § 300aa-13(a)(1). In this case, because there are insufficient medical records supporting Petitioner's claim, a medical opinion must be offered in support. Petitioner, however, has offered no such opinion.

Accordingly, it is clear from the record in this case that Petitioner has failed to demonstrate either that C.C. suffered a "Table Injury" or that C.C.'s injury was "actually caused" by a vaccination. **Thus, this case is dismissed for insufficient proof. The Clerk shall enter judgment accordingly.**

IT IS SO ORDERED.

s/George L. Hastings, Jr.
George L. Hastings, Jr.
Special Master